

April 28, 2016

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BY ELECTRONIC AND FIRST CLASS MAIL

Mr. Eric Schaaf
Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway
New York, NY 10007

Re: Diamond Alkali Superfund Site - Lower Passaic River Study Area

Dear Mr. Schaaf:

Covanta Essex Company ("Covanta") is joining in the March 16, 2016 request by the G-10 members for a meeting as soon as practicable to discuss potential *de minimis* and *de micromis* settlement for the Lower Passaic River Study Area (Operable Unit 2) of the Diamond Alkali Superfund Site (the "Site").

By way of background, counsel for Covanta wrote to you on April 8, 2015, requesting that the United States Environmental Protection Agency ("EPA") include Covanta in any future *de minimis* or *de micromis* settlement negotiations for the Site. Based upon your March 20, 2015 letter to Daniel Riesel, it was our understanding that EPA's position was that *de minimis* and *de micromis* settlement negotiations would commence in earnest upon issuance of the Record of Decision ("ROD") for the lower eight miles of the Site.

EPA released the ROD on March 3, 2016 and notified Covanta that it is potentially liable for the selected remedy for the lower 8.3 miles of the Site in the March 31, 2016 Notice of Potential Liability under 42 U.S.C. §9607(a) (the "107(a) Notice"). EPA stated in the 107(a) Notice that it recognized that some of the parties may be eligible for a cash out settlement and that a separate notice of the opportunity to discuss such settlement would be provided at a later date.

Covanta is prepared to participate in developing a viable cash out settlement process and show that the alleged historical releases from its facility are not driving the risk to human health and the environment identified in the ROD and did not contribute to the contaminants of concern driving the costs of the selected remedy. Covanta makes this offer to participate in the process without admitting to any liability in this matter and reserves all its defenses and rights to contest

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any alleged liability under CERCLA or other applicable law. We look forward to working with EPA to resolve this matter.

Very truly yours,

Wilson Elser Moskowitz Edelman & Dicker, LLP

A large, stylized handwritten signature in black ink, appearing to read 'B. Hopkinson Kelly'.

Barbara Hopkinson Kelly

cc: Sarah Flanagan (USEPA)
Nancy Tammi (Covanta)